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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,218	01/12/2004	Jeffrey Berichon	78297/00001	1889
23380 7590 07/29/2008 TUCKER ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1414				
EXAMINER				
ROJAS, HAJIME S				
ART UNIT		PAPER NUMBER		
4115				
NOTIFICATION DATE		DELIVERY MODE		
07/29/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/755,218

Applicant(s)

BERICHON ET AL.

Examiner

HAJIME ROJAS

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This communication is in response to application filed on January 12, 2004.

Claims 1-40 are pending and presented for examination on the merits.

Priority

Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Provisional Application No. 60/439,130 filed on January 10, 2003.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11- 20 are rejected under 35 U.S.C. 101. Based on Supreme Court precedent, and recent Federal Circuit decisions, a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the

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method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus. Thus, claims 11 - 20 are non-statutory since they may be preformed within the human mind.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1– 40 are rejected under 35 U.S.C. 102(e) as being anticipated by

Waddington et al. (US 2002/0010661 A1 hereinafter Waddington).

As per claims 1, 11, 21 and 31, Waddington discloses an electronic system, method, computer readable medium and computer implemented method, respectively, for managing items in a supply chain comprising:

item information capturing means adapted for {capturing identification information associated with an item identified for supply chain management} ([paragraph][0085],

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wherein information about an item which is part of a distribution chain is scanned using a delivery device);

mode specifying means adapted for {receiving user input representative of a selection of at least one of a plurality of capturing modes, wherein each capturing mode is adapted for creating associated information by associating the captured item information with supply chain information} ([0088], wherein user is able to input information based on the displayed options);

and communicating means adapted for {communicating the associated information to an {associated} data storage device} ([0085], wherein the information gathered is uploaded to the distribution center computer system).

As per claims 2, 12, 22 and 32, the system of claim 1, the method of claim 11, the medium of claim 21 and the method of claim 31 respectively, wherein the plurality of capturing modes includes {comprises} at least one of a consolidation stage, a grid area stage, a loading vehicle stage, a delivery stage and a pick up stage ([0088], "Pre Load", "Route Select", "Manifest". See also Figure 4).

As per claims 3, 13, 23 and 33, the system of claim 2, the method of claim 12, the medium of claim 22 and the method of claim 32 respectively, wherein the consolidation stage mode is adapted for associating the captured item information with supply chain

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information comprising at least one of a pallet identification with which the item has been associated, a time of capture information, a date of capture information, and item classification information ([0089], "Route Select", pallet mode. See also [0090], date and time of deliveries. See also [0096], wherein containers are classified as full or half).

As per claims 4, 14, 24 and 34, the system of claim 2, the method of claim 12, the medium of claim 22 and the method of claim 32 respectively, wherein the grid area stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a grid identification with which the item has been associated, a time of capture information, and a date of capture information ([0081] and [0083], wherein a barcode associated with a location in a warehouse is scanned and forms part of the item unique identifier which is again scanned on "PreLoad" [0087]. See also [0090], date and time of deliveries).

As per claims 5, 15, 25 and 35, the system of claim 2, the method of claim 12, the medium of claim 22 and the method of claim 32 respectively, wherein the loading vehicle stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a vehicle identification, wherein the vehicle has been identified for transporting the item, a time of capture information, a date of capture information, and a delivery destination ([0089], "Route Select", Truck number. See also [0090], date and time of deliveries and [0091], delivery stops).

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As per claims 6, 16, 26 and 36, the system of claim 2, the method of claim 12, the medium of claim 22 and the method of claim 32 respectively, wherein the delivery stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a time of capture information, a date of capture information, item damage information, and item refusal information ([0099], "Manifest", items flagged as refused. See also Figure 53, wherein the user can choose "Unsalable Rcvd Damaged").

As per claims 7, 17, 27 and 37, the system of claim 2, the method of claim 12, the medium of claim 22 and the method of claim 32 respectively, wherein the pick up stage mode is adapted for associating the captured item information with supply chain information comprising at least one of a time of capture information, a date of capture information, an item recipient identity, item damage information, and item refusal information ([0099], "Manifest" includes date and time, items flagged as refused and [0110], receiving agent's name. See also Figure 53, wherein the user can choose "Unsalable Rcvd Damaged").

As per claims 8, 18, 28 and 38, the system of claim 1, the method of claim 11, the medium of claim 22 and the method of claim 32 respectively, wherein the communicating means comprises at least one of a physical connection to the data storage device, a wireless connection to the data storage device, a Bluetooth

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connection to the data storage device and a 802.11 connection to the storage device ([0086], delivery device wirelessly communicates with distribution center computer).

As per claims 9, 19, 29 and 39, the system of claim 1, the method of claim 11, the medium of claim 21 and the method of claim 31 respectively, wherein the data storage device is adapted to be accessed through an Internet connection ([0079], orders to distribution center computer received through internet. See also [0119], distribution center computer accessed through internet).

As per claims 10, 20, 30 and 40, the system of claim 1, the method of claim 19, the medium of claim 29 and the method of claim 39 respectively, wherein the data storage device comprises means adapted for formatting the associated information in accordance with an input user request ([0079], orders received by mail are entered into the distribution center computer. See also [0086], wherein information about deliveries is uploaded to the distribution center computer).

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention,

as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Kadaba et al. (US 6,285,916 B1)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAJIME ROJAS whose telephone number is (571)270-5491. The examiner can normally be reached on EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bayat Bradley can be reached on (571)272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the

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automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.R.

Patent Examiner, AU 4115

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 4115